

UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of: Thomas Baumgartner et al.
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Group Art Unit: 1711
Examiner: Jason Y. Ko
Title: DISHWASHING MACHINE

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Commissioner for Patents
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APPEAL BRIEF

Pursuant to 37 CFR 1.192, Appellants hereby file an appeal brief in the above-identified application. This Appeal Brief is filed within one month of the Notice of Panel Decision from Pre-Appeal Brief Review dated April 26, 2011 and is accompanied by the requisite fee set forth in 37 CFR 1.17(f).

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(1) REAL PARTY IN INTEREST

The real party in interest is BSH Bosch und Siemens Hausgeräte GmbH.

(2) RELATED APPEALS AND INTERFERENCES

There are no appeals or interferences that will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

(3) STATUS OF CLAIMS

Claims 6-14 are pending in the application and are the basis for the appeal. Claims 1-5 were canceled in the June 2, 2005 Preliminary Amendment. Claims 6 and 12 are independent.

(4) STATUS OF AMENDMENTS

The pending claims identified in the Claims Appendix correspond to the claims entered following the submission of the October 27, 2010 Amendment.

(5) SUMMARY OF CLAIMED SUBJECT MATTER

The present invention as recited in independent claim 6 relates to a dishwashing machine 1, including a door 2 pivotable about its horizontal axis (page 4, lines 11-14 and FIG. 1); a switch 4 arranged on the door (page 4, line 15 and FIG. 1), operable to generate an

electric signal when a predetermined pivoting angle of the door 2 is reached as the door 2 is being opened; and a light source 5 (page 4, lines 15-17 and FIG. 1) that illuminates the interior of the dishwashing machine 1, the light source 5 being disposed in the interior of the dishwashing machine 1 and being operably connected to the switch 4 such that the light source 5 is activated into an illuminated condition in response to the receipt of the electrical signal from the switch 4 (page 4, lines 24-33 and FIG 1).

Independent claim 12 similarly recites a dishwashing machine 1, comprising: a door 2 (page 4, lines 11-14 and FIG. 1) pivotable around the horizontal axis thereof to provide horizontal access to the interior of the dishwashing machine 1; a switch 4 arranged on the door (page 4, line 15 and FIG. 1), the switch 4 being operable to generate an electric signal when a predetermined pivoting angle of the door 2 is reached as the door 2 is being opened; and a light source 5 (page 4, lines 15-17 and FIG. 1) that illuminates the interior of the dishwashing machine 1, the light source 5 being disposed in the interior of the dishwashing machine 1 and being operably connected to the switch 4 such that the light source 5 is activated into an illuminated condition in response to the receipt of the electrical signal from the switch 4 (page 4, lines 24-33 and FIG 1).

(6) GROUNDS OF REJECTION TO BE REVIEWED ON APPEAL

(a) Whether claims 6-9 are anticipated under 35 U.S.C. § 102(b) by Choi (U.S. Patent no. 5,795,052).

(b) Whether claims 6-9 stand are unpatentable under 35 U.S.C. § 103(a) over Lamb (U.S. Patent no. 3,619,592).

(c) Whether claims 10 and 11 are unpatentable under 35 U.S.C. 103(a) over Lamb or Choi and further in view of Thompson et al. (U.S. Patent no. 4,894,643).

(d) Whether claims 12-14 are unpatentable under 35 U.S.C. 103(a) over Burnett in view of Lamb.

(7) ARGUMENT

(a) Claims 6-9 are NOT anticipated under 35 U.S.C. § 102(b) by Choi (U.S. Patent no. 5,795,052).

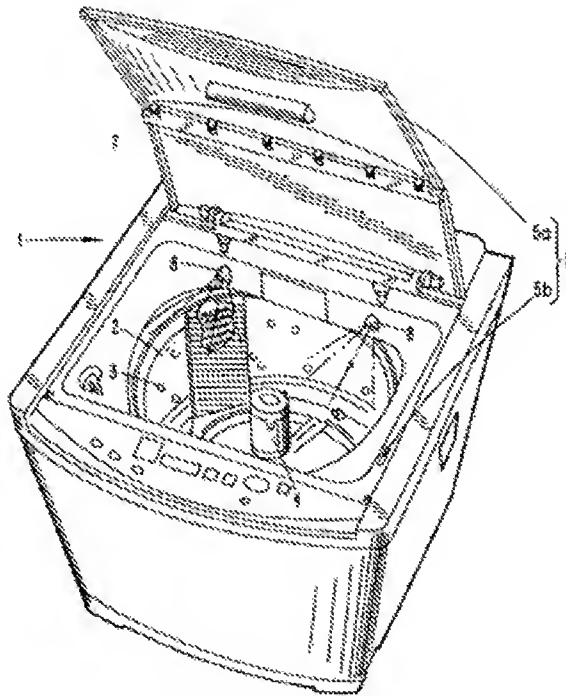
Independent claim 6 recites, *inter alia*, a dishwashing machine including, *inter alia*, a door pivotable about its horizontal axis and a switch arranged on the door, operable to generate an electric signal when a predetermined pivoting angle of the door is reached as the door is being opened.

Choi does not disclose this combination of features. With respect to these features, the grounds of rejection allege that "[Choi] includes a door pivotable about a horizontal axis, a switch 5 of which at least one portion is located inside the door[.]" Applicants disagree with the interpretation of Choi as described in the grounds of rejection. The switch disclosed in Choi is in no way located on or inside the door. Rather, Choi discloses a washing machine with a door open sensor that includes a switch located on the machine body, not on the door:

In the washing machine, the door open sensor 5 includes a magnet 5a mounted to one side of the door 7, and a reed switch 5b whose contact is switched by a magnetic force of the magnet 5a.

However, in a conventional washing machine with an illumination lamp, although a user opens the door 7 by a predetermined angle, the magnet 5a is separated from the reed switch 5b by a constant distance, thereby operating the reed switch 5b. Simultaneously, a controller determines an open state of the door 7, and thus turns on the illumination lamp.

FIG. 1
(PRIOR ART)



Choi, col. 1, lines 54-64; Fig. 1. As can be seen in Fig 1 of Choi reproduced above, any switch 5b is located on the main body 1 of the washing machine, and not on the door 7 of the washing machine. Thus, Choi does not disclose a switch arranged on the door, as recited in

claim 6. The Response to Arguments in the Final Rejection states that magnet 5a is located on the door. However, this is not similar to the switch itself.

Furthermore, the reed switch of Choi is "switched by a magnetic force of the magnet 5a," and "the magnet 5a is separated from the reed switch 5b by a constant distance, thereby operating the reed switch 5b" Choi, col. 1, lines 56-62. Thus, the switch disclosed in Choi is not operable as a function of the pivoting angle of the door, as recited in claim 6.

For at least the foregoing reasons, Applicants submit that claim 6 is not anticipated by Choi. Claims 7-9 depend from independent claim 6. Therefore, Choi does not anticipate claims 7-9 for at least the reasons given above with respect to claim 6.

(b) Claims 6-9 are NOT unpatentable under 35 U.S.C. § 103(a) over Lamb (U.S. Patent no. 3,619,592).

Independent claim 6, rejected under 35 U.S.C. § 102(b) as anticipated by Lamb, recites, *inter alia*, a dishwashing machine including a switch arranged on the door, operable to generate an electric signal when a predetermined pivoting angle of the door is reached as the door is being opened. The grounds of rejection admit that Lamb does not disclose a switch located on the door. However, the grounds of rejection allege that "[r]elocating the switch is considered to be obvious, as it is a mere rearrangement of previously disclosed parts that fails to present unpredictable results." Applicants disagree. As an initial matter, assuming *arguendo* that it would be obvious to a person of ordinary skill to locate a switch on the door

of the dishwasher of Lamb, such a rearrangement of Lamb would still not disclose or teach a switch operable to generate an electric signal *when a predetermined pivoting angle of the door is reached* as the door is being opened, as recited in claim 6. The Response to Arguments incorrectly gives no weight to at least the term “predetermined” in the claim.

Furthermore, Lamb describes multiple configurations of the switch, none of which teach or suggest a switch on the door operable to generate an electric signal *when a predetermined pivoting angle of the door is reached* as the door is being opened, as recited in claim 6. Rather, in the first configuration of Lamb, the pushbutton switch is arranged to operate only by direct contact with the closed door, and not when a predetermined pivoting angle of the door is reached, as recited in claim 6. In the second configuration, the switch is incorporated in a knob on the exterior of the dishwasher, and operable in response to movement of the knob, not in response to the door reaching a predetermined pivoting angle, as recited in claim 6.

Claims 7-9 depend from claim 6. Therefore, claims 7-9 are patentable over Lamb for at least the reasons given above with respect to claim 6.

(c) Claims 10 and 11 are NOT unpatentable under 35 U.S.C. 103(a) over Lamb or Choi and further in view of Thompson et al. (U.S. Patent no. 4,894,643).

As discussed *supra*, independent claim 6, from which claims 10 and 11 depend, is not taught or suggested by either Choi or Lamb. Thompson discloses an alarm system arranged to be actuated upon leaving a door to an appliance open longer than a preselected period of time.

The addition of Thompson does not overcome the failure of Choi or Lamb to teach the features of claim 6, from which claims 10 and 11 depend. Therefore, claims 10 and 11 are patentable over Choi or Lamb in view of Thompson for at least the reasons given above with respect to claim 6.

(d) Claims 12 - 14 are NOT unpatentable under 35 U.S.C. 103(a) over Burnett in view of Lamb.

The grounds of rejection acknowledge that the lights of Burnett are not located in the interior of the washing machine, but state that Lamb discloses a light source 30 that is located in the interior of the machine and that it would have been obvious at the time of invention to modify Burnett, and relocate the lights, or add new lights, to the interior of the machine, as disclosed by Lamb, in order to illuminate the crockery when the door is open. Assuming *arguendo*, neither Burnett nor Lamb (for the reasons discussed above) disclose or suggest the claimed switch of claim 12. Claims 13 and 14 are allowable at least based on their dependence on claim 12.

(8) CONCLUSION

In view of the foregoing discussion, Appellants respectfully request reversal of the Examiner's rejections.

Respectfully submitted,

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CLAIMS APPENDIX

1 – 5. (Canceled)

6. (Rejected) A dishwashing machine, comprising:

a door pivotable around the horizontal axis thereof;

a switch arranged on the door, the switch being operable to generate an electric signal when a predetermined pivoting angle of the door is reached as the door is being opened; and

a light source that illuminates the interior of the dishwashing machine, the light source being disposed in the interior of the dishwashing machine and being operably connected to the switch such that the light source is activated into an illuminated condition in response to the receipt of the electrical signal from the switch.

7. (Rejected) The dishwashing machine according to claim 6, wherein the light source is arranged in the interior of the dishwashing machine when the door is opened.

8. (Rejected) The dishwashing machine according to claim 6, wherein the switch is arranged inside the door.

9. (Rejected) The dishwashing machine according to claim 6, wherein the switch is operable to generate the electric signal so as to cause the light source to illuminate the inner wall of the opened door, and, in particularly, to illuminate a crockery basket arranged on the door.

10. (Rejected) The dishwashing machine according to claim 6, and further comprising an acoustic signal transmitter operably connected to the switch such that the electric signal triggers an acoustic signal.

11. (Rejected) The dishwashing machine according to claim 10, wherein the acoustic signal transmitter is operable to sound an acoustic signal as a reminder that the door is open, after the door has remained open for a predetermined time such as, for example, a time of thirty (30) minutes.

12. (Rejected) A dishwashing machine, comprising:
a door pivotable around the horizontal axis thereof to provide horizontal access to the interior of the dishwashing machine;
a switch arranged on the door, the switch being operable to generate an electric signal when a predetermined pivoting angle of the door is reached as the door is being opened; and
a light source that illuminates the interior of the dishwashing machine, the light source being disposed in the interior of the dishwashing machine and being operably connected to the switch such that the light source is activated into an illuminated condition in response to the receipt of the electrical signal from the switch.

13. (Rejected) The dishwashing machine of claim 12, wherein the predetermined pivoting angle is at minimum 30 degrees from the plane of the door when the door is in the closed position.

14. (Rejected) The dishwashing machine of claim 12, wherein the door supports contents of the dishwashing machine when the door is in an open position.

EVIDENCE APPENDIX

None

RELATED APPEALS APPENDIX

None